

The Appeals Board finds the issues enumerated above are listed in K.S.A. 44-534a as appealable from preliminary hearings and, thus, the Appeals Board has jurisdiction to consider this matter.

Claimant alleges injury on April 15, 1994 with aggravation through the present to his right hip, right shoulder and left shoulder. Claimant further alleged aggravation on February 3, 1995 to the left shoulder.

Claimant suffered injury on April 15, 1994 when he fell into a hole in the floor striking his right side, hip and shoulder. He advised his supervisor that he had injured his right hip, his right shoulder and his left shoulder, although the pain in the left shoulder was less than that experienced on the right.

Claimant contends further aggravation through April 1995. Medical records in December 1994 and January 1995 support claimant's contention that he was having additional problems with the left shoulder, including what appears to be an additional, sudden onset of pain in December 1994, rendering claimant unable to use the left arm after the incident. Claimant's left shoulder appeared to progressively worsen.

Claimant's contentions that he advised his supervisor of all of his problems, including the left shoulder, while controverted by the respondent, were not controverted by testimony of any witness on behalf of the respondent and appear to be supported by the medical records.

K.S.A. 44-501 and K.S.A. 44-508(g) make it claimant's burden to prove by a preponderance of the credible evidence that his contentions are more probably true than not true based upon the entire record. The Appeals Board finds the testimony provided by claimant coupled with the medical evidence satisfies claimant's burden of proof that he suffered accidental injury arising out of and in the course of his employment to his right hip, right shoulder and left shoulder and that claimant provided both notice and written claim to the respondent in a timely fashion. As such, the Appeals Board finds the Order of John D. Clark dated May 11, 1995 is appropriate and it is affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark dated May 11, 1995 is affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of August 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: David Farris, Wichita, KS
 Eric K. Kuhn, Wichita, KS
 Steven L. Foulston, Wichita, KS
 John D. Clark, Administrative Law Judge
 David Shufelt, Acting Director